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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,127	11/21/2001	Jeffrey H. Yanof	PII 3330	2796

7590 05/07/2003

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PHILIPS MEDICAL SYSTEMS (CLEVELAND), INC.  
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Highland Heights, OH 44143

EXAMINER

SHAH, DEVAANG

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/990,127

Applicant(s)

YANOF ET AL.

Examiner

Devaang Shah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,957,933 to Yanof et al. Yanof et al. disclose a stereotactic guide apparatus for use with a CT scanner device in image guided surgery procedures. The apparatus consists of a medical imaging apparatus for obtaining volumetric images of a subject; means for planning an interventional procedure on a subject using the volumetric images; a mechanical arm assembly disposed near or attached to the imaging apparatus; and an end-effector disposed at the distal end of the mechanical arm assembly. The mechanical arm comprises a base support with a plurality of arm segments and a plurality of joints between the arm segments. The end-effector contains gripping means. The gripping means include first and second finger portions opposed to each other and with surgical instrument guides disposed on each finger portion. Means for incremental movement of the mechanical arm along a trajectory are provided. Part of the trajectory of the mechanical arm may be linear. The gripping force of the gripping means allows for manual intervention of the surgical instrument including release of the instrument. The gripping means are able to exert perpendicular forces of zero. Position tracking means are also provided, as each surgical instrument guidance device is

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adapted to provide a unique identification signal. One embodiment includes two surgical instrument guides in which each has first and second prongs extending past the respective gripping surfaces (column 2, lines 7-43; column 3, lines 30-67; column 4, all; column 5, lines 1-49; column 7, lines 40-58; column 9, lines 11-31; column 10, lines 17-35; figures 1-9).

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,478,028 B1 to Paolitto et al.


U.S. Patent No. 4,975,016 to Pellenc et al.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devaang Shah whose telephone number is 703-306-0333. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703 308-3256. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

DS *DS*  
May 2, 2003

  
Marvin M. Lateef  
Supervisory Patent Examiner  
Group 3700